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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 766

[EPA-HQ-OPPT-2014-0261; FRL-9919-05]

Decision on Request for Waiver from Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Decision on request for waiver from testing.

SUMMARY: EPA denied a request from Nation Ford Chemical (NFC) for a waiver from testing chloranil (2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione). Regulations issued by EPA under the Toxic Substances Control Act (TSCA) require that specified chemical substances be tested to determine if they are contaminated with halogenated dibenzo-p-dioxins (HDDs) or halogenated dibenzofurans (HDFs), and that results be reported to EPA. However, the regulations allow for exclusion or waiver from these requirements if an appropriate application is submitted to EPA and is approved. EPA received a request for a waiver from these testing requirements from NFC.

DATES: EPA denied the NFC waiver on October 17, 2014.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2014-0261, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Hiroshi Dodahara, National Program Chemicals Division (7404T), Office Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0507; email address: dodahara.hiroshi@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities to which this action may apply. Although others may be affected, this action applies directly to the submitter of the request for waiver. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What Action is the Agency Taking?

This document announces the denial of the request from NFC for a waiver from testing under 40 CFR 766.32(a)(2)(ii) for chloranil (2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione; Chemical Abstracts Service Registry Number (CASRN) 118-75-2).

B. What is the Agency's Authority for Taking this Action?

This document is issued under sections 4 and 8 of TSCA (15 U.S.C. 2603 and 2607).

Under 40 CFR part 766, EPA requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs. Under 40 CFR 766.32(a)(2)(ii), a waiver may be granted if, in the judgment of EPA, the cost of testing would

drive the chemical substance off the market, or prevent resumption of manufacture or import of the chemical substance, if it is not currently manufactured, and the chemical substance will be produced so that no unreasonable risk will occur due to its manufacture, import, processing, distribution, use, or disposal. In this case, the manufacturer must submit to EPA all data supporting the determination.

Under 40 CFR 766.32(b), any request for a waiver must be made 60 days before resumption of manufacture or importation of a chemical substance not being manufactured, imported, or processed as of June 5, 1987.

C. NFC Request for Waiver from Testing and Reporting Requirements

EPA received submissions from NFC dated March 18, 2014 (Refs. 1 and 2), May 16, 2014 (Ref. 3), and August 7, 2014 (Ref. 4), which collectively requested that NFC be granted a waiver from the testing and reporting requirements of the “Polyhalogenated Dibenzo-p-Dioxins/Dibenzofurans; Testing and Reporting Requirements” (Dioxins/Furans Test Rule) 40 CFR part 766 for the import of chloranil. EPA published a notice of receipt of the waiver request and requested public comment in the **Federal Register** on June 17, 2014 (Ref. 5); the Agency received no public comments. The waiver request indicates that NFC intends to import chloranil, a chemical substance subject to testing under 40 CFR part 766, for the manufacture of a crude pigment. EPA determined that the information provided by NFC was insufficient to establish that any adverse economic impact from testing would likely be large enough to “drive the chemical substance off the market, or prevent resumption of manufacture or import of the chemical substance” (Ref. 6). EPA therefore denied NFC’s waiver request (Ref. 7).

III. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA,

including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. NFC. Letter from Phillip McCarter to Wendy Cleland-Hamnett, EPA/OPPT. March 18, 2014 (Received by EPA on March 27, 2014).
2. NFC. Technical Correction to Letter from Phillip McCarter to Wendy Cleland-Hamnett, EPA/OPPT. March 18, 2014 (Received by EPA on April 2, 2014).
3. NFC. Letter from Phillip McCarter to Tanya Hodge Mottley EPA/OPPT. May 16, 2014 (Received by EPA on May 21, 2014).
4. NFC. Letter from Phillip McCarter to Wendy Cleland-Hamnett, EPA/OPPT. August 7, 2014 (Received by EPA on August 8, 2014).
5. Receipt of Request for Waiver from Testing; Proposed Rule. **Federal Register** (79 FR 34484, June 17, 2014) (FRL-9911-88).
6. EPA. Nation Ford Chemical Waiver Petition for Dioxin/Furan Test Rule Regarding Import of Chloranil – Economic Assessment (contains no confidential business information). October 9, 2014.
7. EPA. Letter from Wendy Cleland-Hamnett, EPA/OPPT, to Phillip McCarter, NFC. October 17, 2014.

IV. Congressional Review Act (CRA)

The Congressional Review Act (5 U.S.C. 801 *et seq.*), does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 766

Environmental protection, Chloranil, Dibenzofurans, Dioxins, Hazardous substances.

Dated: December 1, 2014.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2014-28824 Filed 12/08/2014 at 8:45 am; Publication Date: 12/09/2014]